

**HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES
Thursday, August 21, 2008**

Members Present

Tom McGuirk, Chairman
John Gebhart
Vic Lessard
Bryan Provencal
Bill O'Brien

Others Present

Joan Rice, Secretary

Chairman McGuirk called the meeting to order at 7:00 p.m.

Chairman McGuirk introduced the members of the Board.

The Pledge of Allegiance was said.

PETITION SESSION

Chairman McGuirk read a letter requesting a continuance to September 18, 2008 for Petition 31-08.

Mr. O'Brien said he had inspected the property and asked the owner of a vehicle parked on the property if he would try to make the 90 degree turn from the driveway into the designated 9 x 18 parking area between the two structures. The vehicle owner attempted to make the turn and then said that there was no way he could get into the parking space, and if he ever did he would not be able to back out. Mr. O'Brien said that parking is a definite problem on this property.

Moved by Mr. O'Brien, seconded by Mr. Provencal, that Petition 31-08 be continued to the September 18th, 2008 meeting and be the last item on the agenda.

VOTE: 5-0-0. Motion passed unanimously.

34-08 WITHDRAWN.

35-08 The petition of Elinor Muhr, Trustee of The EMM Realty Trust, for property located at 1 N Street seeking relief from Article 1.3 as pertains to Article VI to replace an existing set of 5 steps without a landing with a landing and set of 4 steps where there is not adequate room for a parking space. This property is located at Map 293, Lot 139 in a BS zone.

Attorney Peter Saari, Casassa & Ryan, came forward. He said that this was an odd situation. Technically they are infringing on a parking area. The present set of steps has no landing which is a code requirement. There is just no room between the building and front property line to get cars in anyway, so there really is no intrusion on parking spaces.

Attorney Saari went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. Lessard said the present state of the steps is a true hardship and the new steps with a landing would be appropriate.

Mr. O'Brien asked if there was a legitimate parking space before. Attorney Saari replied that there was not.

Comments from the Audience

There were no comments from the audience.

Back to the Board

Moved by Mr. Provencal, seconded by Mr. Lessard, to grant Petition 35-08.

Chairman McGuirk asked the Board if they felt the five criteria had been met. The members agreed that they had.

VOTE: 5-0-0. Motion passed unanimously.

36-08 The petition of Mary & Leigh Fluckiger for property located at 23 Fuller Acres seeking relief from Articles 1.3 and 8.2.3 to construct a laundry room addition to the north side of the existing back building (Unit 6). This property is located at Map 265, Lot 48 in a BS zone.

Leigh Fluckiger and Dennis Cronin, contractor, came forward. Mr. Cronin went through the five criteria and said he felt they had been met.

Questions from the Board

Chairman McGuirk asked Mr. Fluckiger if he owned this property in its entirety. Mr. Fluckiger said he did and also owns the adjacent property.

Comments from the Audience

There were no comments from the audience.

Back to the Board

Moved by Mr. Lessard, seconded by Mr. O'Brien, to grant Petition 36-08.

Chairman McGuirk asked the Board if they felt the five criteria had been met. The members replied that they had.

VOTE: 5-0-0. Motion passed unanimously.

37-08 The petition of The Margaret A. Aaronian Revocable Trust for property located at 28 Beach Plum Way seeking relief from Articles 4.1.1, 4.5.2 and 4.5.3 to replace the existing house with one where the foundation will meet all of the setback requirements, but the roof overhang will not meet the side setbacks and the exterior stairs and deck will not meet the side and rear setbacks. This property is located at Map 134, Lot 67 in a RA zone.

Attorney Peter Saari, Casassa & Ryan, said the Aaronians have owned this property since 1971. They feel the house is in disrepair and desire to replace it. They will keep the foundation where it should be and there will be no overreaching. Attorney Saari went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. O'Brien asked if the house could be shifted 3 feet to the west thereby eliminating the need for rear setback relief. Attorney Saari said they were trying to stay at the existing rear setback. Mrs. Aaronian said they want to be in line with the decks on the other buildings down the street. Mr. Matthew Beechee, the designer of the new building, said it would be possible to move it 3 feet to the west.

Comments from the Audience

There were no comments from the audience.

Back to the Board

Mr. Lessard asked if the neighbors had been consulted. Mrs. Aaronian said they had spoken to them.

Mr. O'Brien stated that the applicant indicated that her deck was in line with the deck on the adjacent house to the south. However, according to the plot plan provided by the applicant, the proposed house deck is more than 8 feet in front of the house deck to the immediate south. Mr. O'Brien again asked why the house could not be shifted 3 feet to the west thereby eliminating the need for rear setback relief and aligning the proposed house closer to the southerly neighbor. The applicant stated that the submitted plot plan was in error.

Moved by Mr. O'Brien, seconded by Mr. Gebhart, to grant Petition 37-08 subject to the rear deck setback being in line with the adjacent, southerly house deck and that a corrected, certified plot plan showing the rear decks for both properties are aligned be submitted to the Building Inspector. However, if the southerly house deck is over 10 feet from the property line then the applicants request for 4.5.3 relief is denied and applicant must move the house 3 feet to the west, meet the rear setback of 10 feet and submit a corrected site plan showing the rear setback at 10 feet.

Chairman McGuirk asked the Board if they felt the five criteria had been met. The members replied that they had.

VOTE: 5-0-0. Motion passed unanimously.

38-08 The petition of Richard Cull Revocable Trust of 2000 through Diane Wolenski & Brian Cull, Trustees, for property located at 16 James Street seeking relief from Articles 4.1.1, 4.5.1 and 4.5.2 to remove the existing house and garage and construct a new house with integral garage which would not meet the front and side setbacks but would be in closer conformity than the existing buildings, conditional upon relocating the home's frontage to Beach Plum Way. This property is located at Map 152, Lot 8 in a RA zone.

Attorney Peter Saari, Casassa & Ryan, and Phelps Fullerton, Architect, came forward. Attorney Saari said a good point was that the frontage should be on Beach Plum. This is conditional because once you change the address, you cannot go back again to the previous one.

Mr. Fullerton said that after their previous appearance they did go back and rework the design. It was reduced in overall length by 8 feet and the garage was reduced to a 1-car

garage rather than 2-car. This will give wheelchair access and some storage. The new house is smaller in gross square footage than either of two neighbors. Size had been a previous concern.

Mr. Fullerton showed a comparison of the new design with the house next door. He showed comparisons of elevations and a chart showing that this is in scale with the other neighboring houses.

Questions from the Board

There were no questions from the Board.

Comments from the Audience

Alex Costello, 4 Beach Plum Way, came forward. Mr. Costello said he was confused about the change of address and didn't see any change in the floor plan from last month. He said a little bit of compression would be appreciated.

Mr. O'Brien said that when the owners had the James Street address, they were significantly obstructing the westerly neighbors' views. However, with the new plan and address change they are closer to meeting the setback requirements, for example, they now need a 2.5 feet variance for the south side versus the previous 12.5 feet on the south side. Also, the door doesn't have to be changed when the address is changed.

Mr. O'Brien reminded Mr. Fullerton that to change the address, he must go to the Post Office, Town Assessor and Town Planner.

Tom Roderick, 8 Beach Plum Way, came forward. He said he was concerned about parking and safety. Drainage could also be a problem.

Renee Cooper, 15 James Street, came forward and said she approves of the design.

Kim Mattess, 11 James Street, came forward and said she and her husband are in agreement with the plans. All construction vehicles will be kept off the street.

Diane Wolenski said she was a co-owner of the house. She said they had gone to speak to their neighbors as the Board had suggested previously. Ms. Wolenski said Pat Costello is in favor of the Beach Plum address.

Brian Cull came forward and said he felt the proposed house is similar to others in the neighborhood. They are trying to make the house appealing to the eye and cause

minimum obstruction of views from the other houses. The setback variances requested are similar to those granted to others on Beach Plum Way.

Back to the Board

Moved by Mr. O'Brien, seconded by Mr. Provencal, to grant Petition 38-08 subject to approval of the Town Planner, Town Assessor and U.S. Post Office of a change the address to Beach Plum Way. The plans are also to be modified to eliminate the footnote reference to the relocation of the front entry to the west side of the house on the new proposed south elevation and new proposed west elevation plans and are to be submitted to the Building Inspector.

Chairman McGuirk asked the Board if they felt the five criteria had been met. They agreed that they had.

VOTE: 4-0-1 (Lessard). Motion passed.

39-08 The petition of Darrell & Ruth Eifert for property located at 35 Glade Path seeking relief from Articles 4.1.1 and 4.5.2 to demolish the existing completely non-conforming old decrepit house and shed with a small 20 foot wide new one that would be conforming except for a set of steps and a slice of the side. This property is located at Map 273, Lot 23 in a RCS zone.

Attorney Peter Saari, Casassa & Ryan, said the petitioners had extensive storm damage to their home. They want to build a better house that will comply with FEMA regulations, etc. The existing house is grossly encroaching on the setbacks.

Attorney Saari went through the five criteria and said he felt they had been met.

Questions from the Board

There were no questions from the Board.

Comments from the Audience

There were no comments from the audience.

Back to the Board

Mr. O'Brien suggested that they relocate the garage door to the side in order to ease access into the garage.

Moved by Mr. Lessard, seconded by Mr. O'Brien, to grant Petition 39-08.

Chairman McGuirk asked the Board if the five criteria had been met. The members agreed that they had.

VOTE: 5-0-0. Motion passed unanimously.

40-08 The petition of Richard & Linda Torossian for property located at 4 Sixth Street seeking relief from Articles 4.1.1 and 4.5.1 to remove the existing house and replace with a new single family home. The foundation of which will have a greater setback both than the present house has, and the other houses on the street have, but will still be less than 20 feet. This property is located at Map 210, Lot 13 in a RA zone.

Attorney Peter Saari, Casassa & Ryan, said this is a narrow, small lot. They have chosen to build a narrow house, but they will have overhangs. Attorney Saari went through the five criteria and said he felt they had been met.

Questions from the Board

Chairman McGuirk commented that the proposed house is architecturally very attractive.

Comments from the Audience

There were no comments from the audience.

Back to the Board

Moved by Mr. Lessard, seconded by Mr. Provencal, to grant Petition 40-08.

Chairman McGuirk asked the Board if they felt the five criteria had been met. The members agreed that they had.

VOTE: 5-0-0. Motion passed unanimously.

41-08 The petition of Robert & Susan Nelson for property located at 71 Mooring Drive seeking relief from Articles 4.1.1 and 4.5.1 to place new structure at current setback to allow more distance from rear of house to marsh at request of Conservation Commission. This property is located at Map 289, Lot 39 in a RB zone.

Robert and Susan Nelson came forward. Mr. Nelson said their current house met all setbacks, but the Conservation Commission has asked them to move the new structure to allow more distance from the rear of the house to the marsh. Mr. Nelson went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. O'Brien asked what the footprints of the old and new houses are. Mr. Nelson replied that the old house is 1,059 square feet and the new house will be 960 square feet. Mr. O'Brien asked what is being placed under the second floor deck. Mr. Nelson replied that only vegetation would go under the deck and that no patio or shed would be placed under the deck since they are not allowed within the 50 feet buffer. It was also indicated that the hot-top driveway would be replaced with gravel.

Comments from the Audience

Nathan Paige, Vice Chairman of the Conservation Commission, came forward. Mr. Paige said he would like the Board to grant this petition so that the Nelson's dwelling does not encroach any further into the buffer.

Back to the Board

Moved by Mr. O'Brien, seconded by Mr. Lessard, to grant Petition 41-08.

Chairman McGuirk asked the Board if they felt the five criteria had been met. The members agreed that they had.

VOTE: 5-0-0. Motion passed unanimously.

42-08 The petition of The Surf Shacks at North Beach LLC for property located at 76 Kings Highway seeking relief from Article 4.1.1 to construct a duplex structure on each of the applicant's two lots of record. This property is located at Map 196, Lot 25 in a RB zone.

Attorney Stephen Ells, Holmes & Ells, and Randall Radky came forward. Attorney Ells said that there are two lots of record and the proposal is to construct a duplex on each of the two lots. The only variance is relief from 4.1.1. There will be no encroachment into the buffer. Attorney Ells went through the five criteria and said he felt they had been met.

Questions from the Board

There were no questions from the Board.

Comments from the Audience

Tom Woods, 7 Hays Street, came forward. Mr. Woods said he was much happier with the current plan rather than the cabins in the previous plan. He said the other abutters agree.

Mr. Paige of the Conservation Commission said this would be very acceptable to them.

Back to the Board

Mr. O'Brien asked if the 7 feet setback shown on the drawings was to the drip edge. Mr. Radky said that it was and that he is well aware of that setback requirement. Mr. O'Brien asked about the deck size which appears on the drawing to be 4 x 6 feet. The response was that the decks would be 12 x 14 feet and meet all setback requirements and not intrude into the buffer.

Moved by Mr. Lessard, seconded by Mr. O'Brien, to grant Petition 42-08.

Chairman McGuirk asked the Board if they felt the five criteria had been met. The members agreed that they had.

VOTE: 5-0-0. Motion passed unanimously.

BUSINESS SESSION

Adoption of Minutes – July 17, 2008

Moved by Mr. O'Brien, seconded by Mr. Provencal, to adopt the Minutes of July 17, 2008.

VOTE: 5-0-0. Motion passed unanimously.

The Business Session was adjourned at 10:05 p.m.

Respectfully submitted,

Joan Rice
Secretary